

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

BRADLEY S HERMEN
Claimant

APPEAL 17A-UI-03511-DL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 01/29/17
Claimant: Appellant (2)

Iowa Code § 96.6(1) – Filing Claims
Iowa Admin. Code r. 871-24.2(1)a & h(1) & (2) – Backdating

STATEMENT OF THE CASE:

Claimant filed a timely appeal from the March 21, 2017, (reference 01) unemployment insurance decision that denied the request to backdate the claim for benefits prior to March 12, 2017. After due notice was issued, a hearing was scheduled to be held by telephone conference call on April 25, 2017. Claimant participated.

ISSUE:

May the claim be backdated prior to March 12, 2017?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant filed a claim for benefits with an effective date of January 29, 2017, and an additional claim date effective March 12, 2017, and desires to backdate the claim to March 5, 2017. He had no wages that week during the temporary layoff. Claimant delayed filing the claim because the Unemployment Insurance Benefits Handbook is insufficiently clear about the deadline by which to file an additional claim. He attempted to, but was unable to file a claim over the weekend so filed the following work week.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant's request to backdate the claim is granted.

Iowa Code section 96.6(1) provides:

1. Filing. Claims for benefits shall be made in accordance with such regulations as the department may prescribe.

Iowa Admin. Code r. 871-24.2(1)h(1), (2) and (3) provide:

Procedures for workers desiring to file a claim for benefits for unemployment insurance.

(1) Section 96.6 of the employment security law of Iowa states that claims for benefits shall be made in accordance with such rules as the department prescribes. The department of workforce development accordingly prescribes:

h. Effective starting date for the benefit year.

(1) Filing for benefits shall be effective as of Sunday of the current calendar week in which, subsequent to the individual's separation from work, an individual reports in person at a workforce development center and registers for work in accordance with paragraph "a" of this rule.

(2) The claim may be backdated prior to the first day of the calendar week in which the claimant does report and file a claim for the following reasons:

Backdated prior to the week in which the individual reported if the individual presents to the department sufficient grounds to justify or excuse the delay;

There is scheduled filing in the following week because of a mass layoff;

The failure of the department to recognize the expiration of the claimant's previous benefit year;

The individual is given incorrect advice by a workforce development employee;

The claimant filed an interstate claim against another state which has been determined as ineligible;

Failure on the part of the employer to comply with the provisions of the law or of these rules;

Coercion or intimidation exercised by the employer to prevent the prompt filing of such claim;

Failure of the department to discharge its responsibilities promptly in connection with such claim, the department shall extend the period during which such claim may be filed to a date which shall be not less than one week after the individual has received appropriate notice of potential rights to benefits, provided, that no such claim may be filed after the 13 weeks subsequent to the end of the benefit year during which the week of unemployment occurred. In the event continuous jurisdiction is exercised under the provisions of the law, the department may, in its discretion, extend the period during which claims, with respect to week of unemployment affected by such redetermination, may be filed.

(3) When the benefit year expires on any day but Saturday, the effective date of the new claim is the Sunday of the current week in which the claim is filed even though it may overlap into the old benefit year up to six days. However, backdating shall not be allowed at the change of a calendar quarter if the backdating would cause an overlap of the same quarter in two base periods. When the overlap situation occurs, the effective date of the new claim may be postdated up to six days. If the claimant has benefits remaining on the old claim, the claimant may be eligible for benefits for that period by extending the old benefit year up to six days.

The October 2016, *Unemployment Insurance Benefits Handbook*, provides in pertinent part at pages 13 and 14:

CLAIM EFFECTIVE DATE

The effective date of all UI claims, regardless of filing method, will be the Sunday of the week in which the application was filed.

and

REACTIVATING A CLAIM

An individual can start and stop claiming weekly benefits as many times as necessary during the benefit year. This is called a break in reporting status. Any break in reporting requires the individual to file another initial claim application during the week he/she wants to start collecting benefits again. Any employment during the break must be reported.

The October 2016, *Unemployment Insurance Benefits Handbook*, provides in pertinent part at pages 19 and 20:

Filing Weekly Claims

How to File

After you file your initial claim, file weekly claims online at iowaworkforcedevelopment.gov for every week you are unemployed or your hours are reduced. You must file a weekly claim for any week that you want payment even if your eligibility is being decided or you have an appeal pending.

To request UI benefit payments during weeks of unemployment, individuals must certify they:

- are currently unemployed or working reduced hours
- are able to work and available for work
- have not refused any job offers or referrals to a job
- are actively looking for work (unless waived)
- are reporting any pay or pension payment

When to File

The current week is the week that just ended on Saturday. Individuals are strongly encouraged to file their weekly claims between the hours of 9:00 am Saturday through 11:30 pm Sunday. Failing to do so can potentially delay benefits.

IMPORTANT: You will receive confirmation that the claim has been processed successfully. If you don't receive confirmation, the process must be repeated until the claim has been successfully submitted.

Note that the instruction to file weekly continued claims appears six pages later in the Handbook than the initial and reactivation claim filing instructions, *after* information about the fact-finding interview and appeal process. This chronology is reasonably confusing. Further, there is no indication that a new, additional or reopened claim must be filed by the close of business on Friday of the week the unemployment begins. The Unemployment Insurance Benefits Handbook indicates a claim effective date is the Sunday of the week in which the application was filed. There is no instruction that a new, additional or reopened claim must be filed before Saturday of the week of separation or unemployment. Further, there is no indication that a new, additional or reopened claim must be filed by the close of business on Friday of the week the unemployment begins. Thus, the delay in filing within the next business week and because he was unable to obtain assistance by telephone during the same week are considered good cause reasons for having failed to file a claim during the first week of unemployment. Backdating is allowed.

DECISION:

The March 21, 2017, (reference 01) unemployment insurance decision is reversed. The claimant's request to backdate the claim to March 5, 2017, is granted, as are retroactive benefits for the same time period.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/